

**STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON HEALTH
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
THE STATE OF VA'S LONG TERM CARE PROGRAM**

MAY 9, 2007

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to submit The American Legion's views on VA's strategic direction and plans to address the aging veteran population and the needs of the recently separated veterans.

AGING VETERAN POPULATION

A July 1984 study, *Caring for the Older Veteran*, predicted that a "wave" of elderly World War II and Korean Conflict veterans would occur some 20 years ahead of the elderly in the general U.S. population and had the potential to overwhelm the VA Long Term Care (LTC) system if not properly planned for. The most recent available data from VA, 2000 Census-based VETPOP 2001 Adjusted, show there were 25.6 million veterans in 2002 and 9.76 million, or 37 percent, are aged 65 or older. According to the 2003 National Survey of Veteran Enrollees' Health and Reliance on VA, 14 percent of the veteran population was under the age of 45, 39 percent were between the ages of 45 and 64, and 47 percent of veterans were 65 years or older. Compared to the 2001 Survey, in which age distribution was 21, 41 and 39 percent respectively, it is clear that the "demographic imperative" predicted in 1984 is now upon us.

The study cited an "imminent need to provide a coherent and comprehensive approach to long-term care for veterans." Twenty-three years hence, the coherent and comprehensive approach called for has yet to materialize. The American Legion supports a requirement to mandate that VA publish a comprehensive Long Term Care Strategic Plan.

The Veterans Millennium Health Care and Benefits Act of 1999 provided VA the authority to act on these projections. Based on an "aging in place" continuum of care model, VA was mandated to begin providing a variety of non-institutional services to aging veterans, including; home-based primary care, contract home health care, adult day health care, homemaker and home health aides, respite care, telehealth and geriatric evaluation and management.

On March 29, 2002, the Government Accountability Office issued a report that stated that nearly two years after the Millennium Acts passage, VA had not implemented its response to the requirements that all eligible veterans be offered adult day health care, respite care and geriatric evaluation. At the time of GAO's inquiry, access to these services was "far from universal." While VA served about one-third of its 3rd Quarter 2001 LTC workload (23,205 out of an

Average Daily Census of 68,238) in non-institutional settings, VA only spent 8 percent of its LTC budget on these services. Additionally, VA had not even issued final regulations for non-institutional care, but was implementing the services by issuing internal policy directives, according to GAO. Of 140 VAMCs, only 100 or 71 percent were offering adult day health care in non-institutional settings.

By May 22, 2003, over one year later, GAO testified before this Subcommittee that things had not improved and that veterans' access to non-institutional LTC was still limited by service gaps and facility restrictions. GAO's assessment showed that for four of the six services, the majority of facilities either did not offer the service or did not provide access to all veterans living in the geographic service area. GAO summarized the problem nicely when it testified that "[f]aced with competing priorities and little guidance from headquarters, field officials have chosen to use available resources to address other priorities."

In the area of nursing home care, VA is equally recalcitrant in implementing the mandates of the Millennium Act. The Act required VA to maintain its in-house Nursing Home Care Unit (NHCU) bed capacity at the 1998 level of 13,391. In 1999 there were 12,653 VA NHCU beds, 11,812 in 2000, 11,672 in 2001, 11,969 in 2002 and 12,339 beds in 2003. VHA estimates it had 11,000 beds in 2004 and projected only 8,500 beds for fiscal year 2005. The American Legion believes that VA should be required to restore its nursing home care unit capacity as intended by Congress to the 1998 level. Additionally, VA should be prohibited from counting any but their own nursing home care unit beds for the purpose of compliance with the provisions of the Millennium Act.

VA claims that it cannot maintain both the mandated bed capacity and implement all the requirements of the Millennium Act. Providing adequate inpatient LTC capacity is good policy and good medicine. The American Legion opposes attempts to repeal 38 U.S.C. § 1710B(b). The American Legion believes VA should provide the quality of care mandated by Congress for the long term care of America's veterans. Congress should provide adequate funding to VA to implement its mandates.

State Extended Care Facility Construction Grants Program

Since 1984, nearly all planning for VA inpatient nursing home care has revolved around State Veterans' Homes (SVHs) and contracts with public and private nursing homes. The reason for this is obvious; for fiscal year 2004 VA paid a per diem of \$59.48 for each veteran it places in SVHs, compared to the \$354.00 VA said it cost in FY 2002 to maintain a veteran for one day in its own NHCUs.

Currently, VA is authorized to make payments to states for construction and maintenance of SVHs. Today, there are 109 SVHs in 47 states with over 23,000 beds providing nursing home, hospital, and domiciliary care. Grants for construction of state extended care facilities provide funding for 65 percent of the total cost of building new veterans' homes. Recognizing the growing long-term health care needs of older veterans, it is essential that the State Veterans' Home Program be maintained as a viable and important alternative health care provider to the VA system. State authorizing legislation has been enacted and state funds have been committed. The West Los Angeles State Veterans' Home, alone, is a \$125 million project. Delaying this and other

projects will result in cost overruns from increasing building materials costs and may lead states to cancel these much-needed facilities.

The American Legion supports increasing the amount of authorized per diem payments to 50 percent for nursing home and domiciliary care provided to veterans in State Veterans' Homes. The American Legion also supports providing prescription drugs and over-the-counter medications to State Homes Aid and Attendance patients, along with the payment of authorized per diem to State Veterans' Homes. Additionally, VA should allow for full reimbursement of nursing home care to 70 percent service-connected veterans or higher, if the veteran resides in a State Veterans' Home.

COMMISSION ON THE FUTURE FOR AMERICAN'S VETERANS

In testimony delivered in 2006 addressing VA Long Term Care, GAO identified a major challenge in VA's ability to plan for nursing home care as estimating which veterans will seek care from VA and what their nursing home needs will be. The unpredictability of the long term care needs of those suffering from poly trauma, blast injuries and lasting mental health conditions as a result of participation in the ongoing Global War on Terror will no doubt make planning even more challenging.

The Commission on the Future for America's Veterans was established in September 2006. The Commission's purpose is to ascertain the needs of veterans 20 years in the future. The Commissioners are experts on veterans' issues and include Past National Commanders of the largest veterans service organizations, those who have treated combat veterans, as well as a former VA administrator and a former Congressman. The Commission was created by the Veterans Coalition, which includes The American Legion, Veterans of Foreign Wars (VFW), Disabled American Veterans (DAV), Paralyzed Veterans of America (PVA), AMVETS, Vietnam Veterans of America, Blinded American Veterans, Jewish War Veterans, and Military Order of the Purple Heart

The Commission has been conducting town hall meetings around the country to allow veterans, family members and caregivers an opportunity to express their views on the future needs of service members, especially those who have been injured in the current Global War on Terror. At the conclusion of this fact finding initiative, the Commission will create a report that will include recommendations for addressing the needs identified. The Commission plans to deliver recommendations to the President, Congress, and the American public by Memorial Day 2008.

The American Legion supports this timely and proactive endeavor and hopes VA and Congress utilize the findings to prepare for the long-term needs of the newest era of war veterans.

MANDATORY FUNDING FOR VETERANS HEALTH CARE

A new generation of young Americans is once again deployed around the world, answering the nation's call to arms. Like so many brave men and women who honorably served before them, these new veterans are fighting for the freedom, liberty and security of us all. Also, like those who fought before them, today's veterans deserve the due respect of a grateful nation when they return home.

Unfortunately, without urgent changes in health care funding, new veterans will soon discover their battles are not over. They will be forced to fight for the life of a health care system that was designed specifically for their unique needs. The American Legion believes that the solution to the Veterans Health Administration (VHA) recurring fiscal difficulties will only be achieved when VA funding becomes mandatory. Funding for VA health care currently falls under discretionary spending within the Federal budget. VA's health care budget competes with other agencies and programs for Federal dollars each year.. VA's ability to treat veterans with service-connected injuries is dependent upon discretionary funding approval from Congress each year.

Under mandatory funding, VA health care would be funded by law for all enrollees who meet the eligibility requirements, guaranteeing yearly appropriations for the earned health care benefits of enrolled veterans.

The Veterans Health Administration is now struggling to meet its requirement to provide timely access to health care with funding methods that were developed in the 19th century. The American Legion believes that health care rationing for veterans must end. It is time to guarantee health care funding for all veterans.

Mr. Chairman, that concludes my testimony.